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In re Application of
BARASCH et al.
Application No.: 09/980,853
PCT No.: PCT/US00/12536
Int. Filing Date: 04 May 2000
Priority Date: 04 May 1999
Attorney's Docket No.: 58040-A-PCT-US
For: A METHOD OF INDUCING FORMATION OF
KIDNEY EPITHELIA FROM MESENCHYMAL
PRECURSORS

DECISION ON PETITION

UNDER 37 CFR 1.181

This is in response to applicant's 05 April 2004 petition entitled "Petition to Withdraw Holding of Abandonment in Response to February 24, 2004 Notification of Defective Response Abandonment". The petition is being treated as a petition under 37 CFR 1.181, requesting acceptance of documents filed on 05 April 2004 for completion of the application. No petition fee is required.

BACKGROUND

On 02 November 2001, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 22 January 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration executed by the inventors in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period was required. Applicant was also advised that an initial or substitute computer readable form (CFR) of the 'Sequence Listing' was required along with a statement under 37 CFR 1.821(e), (f), (g) or (h)

On 12 March 2002, in response to the Notification of Missing Requirements, applicant filed a declaration executed by the inventors in compliance with 37 CFR 1.497(a) and (b).

On 24 February 2004, a Notification of Defective Response Abandonment was inadvertently mailed to applicant, indicating that no reply to the 22 January 2002 Notification of Missing Requirements was received and the application was abandoned.

On 05 April 2004, applicant, in response to the Notification of Defective Response Abandonment, filed the instant petition including a copy of postcard bearing a USPTO mail room date-stamped of 12 March 2002 indicating that a response to the January 22, 2002 Notification of Missing Requirements was deposited on that date with the USPTO. Applicant also filed a copy of the earlier reply to the Notification of Missing Requirements including a paper copy and computer-readable form of the Sequence Listing.

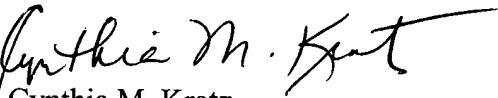
A review of the application file reveals that a declaration was filed on 12 March 2002 and is found in the application file. The declaration was received and is date-stamped "REC'D PCT/PTO 12 MAR 2002". The declaration, executed by the inventors, is acceptable as it meets the requirements of 37 CFR 1.497 and 35 U.S.C. 371.

The Computer Readable Form of the Sequence Listing was entered on 22 June 2004 and is acceptable. Applicant provided the appropriate statement under 37 CFR 1.821(f) on 02 November 2001. A review of the application file reveals that all of the 35 U.S.C. 371 requirements have been met.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **MOOT**. The 24 February 2004, a Notification of Defective Response Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **12 March 2002**.



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